

APPENDIX III

AN ORDINANCE TO AMEND THE LAND USE ORDINANCE OF THE
TOWN OF WESTFIELD TO ADD A NEW APPENDIX TO ESTABLISH
A HISTORIC PRESERVATION COMMISSION AND TO PROVIDE FOR THE
DESIGNATION AND PRESERVATION OF HISTORIC DISTRICTS AND
HISTORIC LANDMARKS

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§ 1. SHORT TITLE AND INDEX.

A. **Title.** This ordinance shall be known as and may be cited as "Historic Designation and Preservation Ordinance of the Town of Westfield".

B. **Index.**

Short Title and Index
Findings, Purposes and Policy
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§ 2. FINDINGS, PURPOSE AND POLICY.

A. Town Council of the Town of Westfield finds and determines as follows:

1. The historical, cultural, architectural and social heritage of the Town of Westfield is given in trust from generation to generation to be used, enriched and then passed on; and
2. The character, life-style and very quality of life in the Town of Westfield depend in great measure upon the Town's protecting this heritage of the past; and
3. The ongoing presence of historic districts and landmarks, as an essential element of municipal character and identity, is an important factor in the economy of the municipality and the property values therein; and

4. Such historic districts and landmarks are vital to the education and civic-mindedness of the Town's young people; and
 5. A number of critical factors such as deterioration, demolition and redevelopment and resubdivision threaten such landmarks and districts; and
 6. The welfare of the municipality is dependent on the preservation of its historic heritage for the reasons set forth above.
- B. It is therefore determined that there is a special public interest in the preservation of this heritage which requires the regulation of land use located in the historic districts and the regulation of historic landmarks as provided in this ordinance, which public interest has been recognized by the State of New Jersey In N.J.S.A. 40:55D-2(j) and N.J.S.A. 40:55D-65(i).
- C. In adopting this ordinance it is the intention of the Town Council to create an agency which can assist the Town in establishing a system of preventive regulation, based on a rational plan and objective, which will complement existing land use and construction code legislation. The controls herein established, while compatible with N.J.S.A. 40:55D-28(b)(6) and Section 516 of the BOCA code, should be viewed as having an independent basis under N.J.S.A. 40:48-2 and N.J.S.A. 40:55D-65(i).
- D. Nothing contained herein shall supersede the powers of other local legislative or regulatory bodies or relieve any property owner of complying with requirements of any other state statutes or municipal ordinances or regulations.
- E. In the event of any inconsistency, ambiguity or overlapping of requirement enforced by the municipality, the more restrictive shall apply.
- F. This ordinance should not be viewed as requiring or prohibiting the use of any particular architectural style; rather, the purpose is to preserve the past by making it compatible with and relevant to the present. To that end, new construction in or near a landmark or historic district should not necessarily duplicate the style of the landmark or historic district; it should simply be compatible with, and not detract from, the landmark or historic district.

§ 3. DEFINITIONS.

For the purpose of this ordinance and unless the context clearly indicated otherwise, the following words and phrases shall have the meanings ascribed to them by this section.

- A. **Addition.** The construction of new improvements as part of an existing improvement when such new improvement changes the exterior appearance of any landmark or existing improvement in a historic district.
- B. **Alteration.** Any work done on any improvement which:
1. is not an addition to the improvement; and
 2. changes the appearance of the exterior surface of any improvement.
- C. **Demolition.** The razing of any improvement or the obliteration of any natural feature of a landmark.
- D. **Historic district.** One or more historic landmarks and intervening or surrounding property significantly affecting, or affected by, the quality and character of the historic landmark or historic landmarks and shall further be construed to mean a definable group of tax map lots, the improvements on which when viewed collectively:
1. represent a significant period or periods in the architectural and social history of the municipality; and/or
 2. because of their unique character can readily be viewed as an area or neighborhood distinct from surrounding portions of the municipality; or
 3. have a unique character resulting from their architectural style.
- Except as otherwise stated, all references to landmarks in this ordinance shall be deemed to include historic districts as well.
- E. **Historic landmark (or landmark).** Any real property, man-made structure, natural object or configuration or any portion or group of the foregoing which have been formally designated on the Zoning Map of the Town of Westfield as being of historical, archeological, cultural, scenic or architectural significance which:
1. is of particular historic, cultural, scenic or architectural significance to the Town of Westfield and in which the broad cultural, political, economic or social history, state or community is reflected or exemplified; or
 2. is identified with historic personages or with important events in the main current of national, state or local history; or

3. shows evidence of habitation, activity or the culture of prehistoric man; or
4. embodies a distinguishing characteristic or an architectural type valuable as representative of a period, style or method of construction; or
5. represents a work of a builder, designer, artist or architect whose individual style significantly influenced the architectural history of the municipality; or
6. is imbued with traditional or legendary lore.

All landmarks shall specifically be identified within the community facilities or historic preservation elements of the Town Master Plan as recognized by the provision of N.J.S.A. 40-55D-28(b) (6).

The designation of a landmark shall be deemed to include the lot or lots on which it is located.

- F. **Improvement.** Any structure or part thereof constructed or installed upon real property by human endeavor and intended to be kept at the location of such construction or installation for a period of not less than sixty (60) continuous days.
- G. **Minor application.** Any application for a certificate of appropriateness which: (1) does not involve demolition or removal of a landmark, addition to a landmark; or construction of a new structure in an historic district; and (2) meets the criteria set forth in Section 7.B.2 hereof.
- H. **Major application.** Any application for a certificate of appropriateness which: (1) involves demolition or removal of a landmark; addition to a landmark; or construction of a new improvement in an historic district, or (2) otherwise falls within the criteria set forth in Section 7.B.1 hereof. Demolition of any improvement is also subject to a permit therefore obtained from the Town Council in accordance with provisions of the Town Code affecting demolitions.
- I. **Reconstruction.** The act or process of reproducing by new construction the exact form and details of a vanished building, structure, or object or part thereof, as it appeared at a specific period of time.
- J. **Rehabilitation.** The act or process of returning the exterior of an improvement to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the improvement which are significant to historical, architectural and cultural values.

- K. **Repair.** Work done on any improvement which:
1. is not an addition to the improvement; and
 2. does not change the appearance of the exterior surface of any improvement.
- L. **Replacement.** Repairs when a building permit is required for same.
- M. **Restoration.** The act or process of accurately recovering the form and details of the exterior of an improvement by means of the removal of later work or by the reconstruction of missing earlier work.

§ 4. HISTORIC PRESERVATION COMMISSION.

- A. **Establishment.** There is hereby established a commission, pursuant to N.J.S.A. 40:55D-107, which shall be known as the Historic Preservation Commission. This Commission is hereby given, pursuant to N.J.S.A. 40:55D-109(e), authority to grant or deny approvals for certificate of appropriateness under Section 6. hereof.
- B. **Membership.** The Commission shall consist of nine (9) regular members consisting of the following classes, and two (2) alternates as set forth below:
1. Class A. Two (2) persons who are knowledgeable in building design and construction or architectural history and who are citizens of Westfield.
 2. Class B. Two (2) persons who are knowledgeable or demonstrate interest in local history and who are citizens of Westfield.

The Town Historian shall be one of those persons appointed as Class A or Class B members.
 3. Class C. Five (5) persons who shall be citizens of the municipality who shall hold no other municipal office, position or employment, except one (1) such person shall be a member of the Planning Board and at least one (1) such member shall be an attorney.
 4. Alternates. There shall be two (2) alternate members, designated as "Alternate No. 1" and "Alternate No. 2", who shall be citizens of the municipality and who shall hold no other municipal office, position or employment.
- C. **Appointment; terms; vacancies; removal of members.** All members shall be appointed by the Mayor with the concurrence of the Town Council, except for the Class II member who shall be appointed by the Chairman of the Planning Board. Members shall serve for the following terms:

1. Regular members shall serve for four (4) year terms, except for the first regular members, two (2) of whom will have one (1) year terms, two (2) of whom will have two (2) year terms and three (3) will have three (3) year terms.
2. Alternate members shall serve a term of two (2) years, except for the first alternates, one of whom one (1) shall serve for one (1) year.
3. Notwithstanding any other provision herein, the term of any member common to the Historic Preservation Commission and the Planning Board shall be for the term of membership on the Planning Board.
4. Vacancies shall be filled in the same manner in which the previous incumbent was appointed and such vacancy appointed shall be only for the balance of such incumbent's unexpired term.
5. Any member of the Commission may, after public hearing if he requests it, be removed by the Town Council for cause.
6. Commission members shall receive no compensation.

D. Officers and staff.

1. The Commission shall elect from its membership a chairman and a vice chairman.
2. The Commission shall appoint a secretary who need not be a member of the Commission.
3. The Commission shall utilize the Town Attorney as its counsel.
4. Within the limits of funds appropriated for the performance of its work, grants and gifts, the Commission may obtain the services of qualified persons to direct, advise and assist the Commission and may obtain the equipment, supplies and other material necessary to its effective operation.
5. The Commission is empowered to seek advisory opinions and technical assistance from all municipal employees on any matter within the Commission's jurisdiction.

E. Rules and procedures. The Commission shall create rules and procedures for the transaction of its business subject to the following regulations:

1. All meetings shall comply with the Open Public Meetings Act (N.J.S.A. 10:4-7 et. seq.).

2. The secretary shall keep minutes and records of all meetings and proceedings including voting records, attendance, resolutions, findings, determination, and decisions. All material shall be public record.
3. A quorum for the transaction of business shall consist of four (4) of the Commission's members including the chairman, or in his or her absence, the vice chairman.
4. No Commission member may act on any matter in which he has, either directly or indirectly, any personal or financial interest.
5. Alternate members may participate in discussions but may not vote except in the absence or disqualification of a regular member.
6. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.
7. Four (4) affirmative votes are required to grant a certificate of appropriateness. If a certificate of appropriateness is not granted when voted on by the Commission, it shall be considered denied.
8. All actions to grant, change or deny a certificate of appropriateness shall be by formal written resolution containing findings of fact and conclusions which may be adopted as a memorialization after the action has been taken.

F. **Powers and duties.** The Commission shall:

1. prepare surveys of specific districts and landmarks to determine if the landmark or district warrants designation as an historic district or historic landmark under this ordinance, and, if so, prepare and adopt pursuant to Section 5.0 hereof a landmarks designation list and landmarks or historic district map. In preparing such designation list and map, the Commission shall be guided by the criteria used to determine whether the proposed landmark or historic district would be includable in the State or Federal Register of Historic Places;
2. advise the owners of property included on such proposed landmark designation list, and proposed landmarks or historic district map, that such survey and study has been made, providing such owners with any reports or any written findings and conclusions of such study, along with any maps, providing such owners with a copy of this ordinance as provided in Section 5.0 hereof;

3. advise the owners of property included in such proposed landmark designation list, or proposed landmark or historic district map, of the administrative steps to be undertaken pursuant to this ordinance before such landmark or historic district may be finally designated as such by ordinance, emphasizing the means and methods for such owners to present their views at hearings or by petition as to such designation;
4. after the above, conduct a survey of such owners to determine if such owner wishes his property to be finally designated as an historic landmark or as part of an historic district and forward such survey along with any reports, or written findings and the recommendations of the commission as to whether such landmarks or historic districts should be formally designated as such by ordinance to the Planning Board for its review and consideration.
5. decide applications for certificate of appropriateness pursuant to § 6.0 hereof;
6. amend, from time to time as circumstances warrant, the landmark designation list and landmark map in the manner set forth in § 5.0 hereof;
7. report at least annually to the Planning Board, and to the Town Council, on the state of historic preservation in the municipality and to recommend measures to improve same;
8. collect and disseminate material on the importance of historic preservation and techniques for achieving same;
9. advise all municipal agencies regarding goals and techniques of historic preservation;
10. adopt and promulgate such regulations and procedures not inconsistent with this ordinance as are necessary, and proper, for the effective and efficient performance of the duties herein assigned;
11. advise and assist citizen groups and individuals interested in establishing landmarks and historic districts;
12. prepare and maintain a survey of the town of Westfield to identify potential landmarks and historic districts for further research. Such survey shall specify the criteria used, and shall be available for public inspection;
13. advise the Planning Board of the implications for preservation on all other elements of the master plan;

14. advise the Planning Board on the inclusion of landmarks and historic districts in the capital improvement program; and
15. advise the Planning Board and Board of Adjustment on applications for development pertaining to landmarks and historic districts pursuant to § 806.B.2.

§ 5. DESIGNATION OF LANDMARKS AND HISTORIC DISTRICTS.

- A. The Commission shall make studies and surveys of proposed landmarks or historic districts in order to determine if said landmarks or districts meet the criteria of this ordinance and are worthy of protection and preservation. In making these determinations, the commission shall be guided by the criteria used to determine whether the proposed landmark or historic district would be includable in the State or Federal Register of Historic Places.
- B. The Commission shall, as soon as practicable, make public a complete list and map of the proposed landmark or district specifying the location, boundaries and proper historic names thereof and in each case, the reason for such proposed designation. In proposing a landmark or historic district, the Commission may exempt any improvement of any portion of any tax map lot the demolition or alteration or improving of which would not affect the landmark or district as to the purposes and criteria set forth in this ordinance. Such exemption shall only be for good cause shown and upon affirmative vote of five (5) members of the Commission. The proposed list and map shall thereafter be submitted at a public hearing to the examination and criticism of the public. Interested persons shall be entitled to present their opinions, suggestions, and objections at this public hearing. A list and map showing all proposed historic districts and landmarks shall be published, together with notice of the hearing on same, in the official newspaper not less than ten (10) days before such hearing is to be held.
- C. Based on the survey in paragraph A. above, the Commission shall document the importance and historic significance to the municipality, State or nation of each proposed historic district and landmark designations in terms of the purposes and criteria set forth in this ordinance. Thereafter, the Commission, by certified mail, shall:
 1. notify each owner that his property has been proposed to be designated as within the historic district or an historic landmark and the reasons therefore, and provide such owners with any reports or any written findings and conclusions of such study, along with any maps and a copy of this ordinance;

2. advise each owner of the significance and consequences of such proposed designation, and advise him of this opportunities and rights to challenge or contest such designation; and
 3. advise the owners of property proposed to include in such landmark designation list or landmark or historic district map of the administrative steps to be undertaken pursuant to this ordinance before such landmark or historic district may be formally designated as such by ordinance, emphasizing the means and methods for such owner to present their views at hearings or by petition prior to such formal designation.
- D. After full consideration of the evidence brought forth at the special hearing held pursuant to § 5.B, the Commission shall make its final decisions on the proposed designations and shall issue its final report to the public, stating reasons in support of its actions with respect to each proposed landmark and historic district designation.
- E. After the above, the Commission will conduct a survey of owners of property to be recommended to be designated as an historic landmark, or part of an historic district, to determine if such owner objects to his property being designated as an historic landmark, or as part of an historic district, and forward such survey along with any reports, or written findings and the recommendations of the Commission as to whether such landmarks or historic district should be formally designated as such by ordinance to the Planning Board for its review and consideration.
- F. The list and map shall thereafter be submitted to the Secretary of the Planning Board. The Planning Board shall then determine whether to accept the designation list and incorporate same into the Master Plan. After making such review, if the Planning Board decides to accept the designation or portion thereof, it shall forward its recommendations to the Town Council with a request that such properties formally designated as landmarks or within an historic district.
- G. The list shall be submitted thereafter to the Town Council. The Town Council shall then consider whether to adopt the designation list and map as part of the municipal zoning ordinance. Submission shall be made to the Planning Board pursuant to N.J.S.A.40:55D-26(a). Once adopted, the designation list and map may be amended to add thereto in the same manner in which it was adopted. The Town Council shall, as a matter of policy, place heavy reliance on the survey of owners make by the Commission. If the owner of an individual property proposed to be designated as a landmark does not want such designation, the Town Council shall not vote to designate that individual property as a landmark. If more than twenty-five percent (25%) of the property owners in a proposed historic district do not want their properties to

- be included in the historic district, it shall require an affirmative vote of two-thirds (2/3) of all the members of the Town Council to adopt an ordinance establishing this designation; otherwise a simple majority shall be sufficient.
- H. Copies of the designation list and map as adopted shall be made public and distributed to all municipal agencies reviewing development applications and all building and housing permits. A certificate of designation shall be served by certified mail upon the owner of each site included in the final list, and a true copy thereof shall be filed by the Town of Westfield with the County Recorder of Deeds for recordation in the same manner as certificates of lien upon real property.
- I. Each designated historic district or landmark may be marked by an appropriate plaque in such form as the Commission shall promulgate by regulation.
- J. Once an improvement has been designated a landmark or incorporated as an historic structure within an historic district, it shall not be delisted therefrom except by ordinance adopted by a simple majority of those present. If delisted, a certificate to that effect shall also be filed by the Town of Westfield with the County Recorder of Deeds.
- K. The Commission shall advise and assist individual citizens and groups interested in establishing historic districts or designating landmarks within the Town of Westfield.

§ 6. CERTIFICATION OF APPROPRIATENESS.

- A. **Actions requiring a certificate of appropriateness.** A certificate of appropriateness issued by the Historic Commission shall be required before a permit may be issued by the Zoning Officer and the Construction Official for the following, or in the event no other type of permit is otherwise required, before work can commence on any of the following activities on the property of any landmark or within any historic district:
1. demolition of an historic landmark or of any improvement within any historic district;
 2. relocation of any historic landmark or of any improvement within any historic district;
 3. changes in the exterior appearance of any existing landmark or of any improvement within any historic district by addition, alteration, replacement, rehabilitation, restoration, or reconstruction or painting;

4. changes in, or addition of, new signs or exterior lighting, except that no certificate of appropriateness shall be required for one (1) unlit sign per premises if the surface area of such sign does not exceed one (1) square foot for an identification sign, or four (4) square feet for a commercial sign, providing either of same is attached to, and parallel to, a facade of the building or structure;
5. any construction of an improvement; and
6. any change in the exterior appearance of any improvement within an historic district which itself does not have historic significance because same is of new construction, or for other reasons. Such change need not comply with the architectural requirements of the ordinance for that district, but any change shall be consistent with the architectural style of the improvement as constructed and shall insofar as practical be compatible with other structures nearby in the district.

- B. **Exceptions.** A certificate of appropriateness shall not be required for any repainting, repair or exact reconstruction of any existing improvement. In the event that the color or exterior surface material of the improvement would be changed as a result of such repainting, repair or exact replacement, a certificate of appropriateness shall not be required if the new color or exterior surface is one that has been previously approved by regulations duly promulgated by the Commission for similar improvements in that district. If such repainting, repairing, or exact replacement does not conform to the said regulations, a certificate of appropriateness shall not be required.

§ 7. PROCEDURES FOR FILING AN APPLICATION.

- A. All applications shall submit a pre-application form promulgated by the Commission not less than ten (10) days before a Commission meeting.
- B. The Commission shall review the pre-application form and classify the application in accordance with the action requested.
 1. If the action for which the certificate of appropriateness is requested will substantially affect those characteristics of the landmark listed on the landmark designation or, in the case of an improvement within an historic district, will substantially affect the characteristics of the district listed on the district's landmark designation, the Commission shall classify the application as a major application as described in the Commission regulations.

2. If the action for which the certificate of appropriateness is requested will not substantially affect the landmark or district as stated above, then the Commission shall classify the application as a minor application.
- C. Minor applications may be heard immediately upon classification. Such immediate hearing shall be at the Commission's discretion, if they feel there is sufficient evidence on the record at that point. If the Commission finds that an adjacent property may be affected by the action for which a certificate has been requested, the Commission may order, as a condition subsequent to the approval of a minor application, that the applicant send certified mail notices of the Commission's actions to such owners of adjacent property as the Commission believes might be affected by their action. Such owners shall have thirty (30) days to file a written objection and in the absence of which the minor approval shall be deemed final. If a written objection is received, the Commission shall hear the objector on the record, prior to reconsidering its decision. The objector shall have full rights to present evidence and to cross-examine prior witness. The Commission shall hear and make recommendations on any objection within forty-five (45) days of its receipt.
- D. A minor application shall include, in addition to those items required by regulation, as part of the application, the following:
1. a certificate that all property owners within two hundred (200) feet of the lot lines of the landmark property have been sent a notice of the application by certified mail not less than ten (10) days before it is to be heard; and
 2. proof of publication of a notice of the application is in the official newspaper not less than ten (10) days before it is to be heard.
- E. The Commission shall make a decision on the application within forty-five (45) days after the secretary has declared an application to be complete; otherwise the application shall be deemed to have been approved. Nothing herein shall prohibit an extension of time by mutual agreement of the applicant and the Commission. The Commission may advise the applicant and make recommendations in regard to the appropriateness of proposed action.

After action by the Commission, pursuant to § 4.A hereof, the secretary of the Commission shall notify the applicant in writing of such resolution, and provide the applicant with a certified copy thereof. A summary of the Commission's action shall be published in the official newspaper and the Zoning Officer shall be notified of the same.

- F. In the event that an applicant alleges that compliance with the requirements of this section would be an unreasonable hardship, and that the nature of his application is such that the minor change sought neither justifies the time and expense of the plenary proceeding, will not impact negatively on the public good nor specifically on the historic qualities sought to be preserved; the Commission, by five (5) affirmative votes, may grant such relief from the requirements of this section as it deems consistent with the public good and the purposes of this ordinance.
- G. An applicant may allege that a certificate of appropriateness should be granted without the need to fulfill all of the application requirements set forth herein because the addition or alteration contemplated will not be visible from any place to which the public normally has access and, therefore, that the said addition or alteration cannot adversely affect the public interest. In that event the Commission, by four (4) affirmative votes, upon finding that the applicant's claim is accurate, may forthwith recommend the grant of a certificate of appropriateness on that basis.

§ 8. STANDARDS OF CONSIDERATION.

- A. **Demolitions.** In regard to an application to demolish an historic landmark or any improvements within an historic district, the following matters shall be considered:
1. its historic, architectural and aesthetic significance;
 2. its use;
 3. its importance to the municipality and the extent to which its historical or architectural value is such that its removal would be detrimental to the public interest;
 4. the extent to which it is of such old, unusual or uncommon design, craftsmanship, texture or material that it could not be reproduced or could be reproduced only with great difficulty;
 5. the extent to which its retention would promote the general welfare by maintaining and increasing real estate values; generating business; creating new jobs; attracting tourists, students, writers, historians, artists and artisans; attracting new residents; encouraging study and interest in American history; stimulating interest and study in architecture and design; educating citizens in American culture and heritage; or making the municipality a more attractive and desirable place in which to live; and

6. if it is within an historic district, the probable impact of its removal upon the ambience of the historic district.
- B. **Relocation out of the Town of Westfield.** In regard to an application to move an historic landmark or improvement within a historic district to a location outside the municipality, the following matters shall be considered along with any other factors the Commission considers relevant:
1. the possible historic loss to the site of original location;
 2. the reasons for not retaining the landmark or structure at its present site;
 3. the proximity of the proposed new location to the Town of Westfield, including the accessibility to the residents of the Town of Westfield and other citizens;
 4. the probability of significant damage to the landmark or structure itself during relocation; and
 5. the applicable matters listed in § 8.A.
- C. **Relocation within the municipality.** In regard to an application to move an historic landmark or any improvements in an historic district to a new location within the Town of Westfield, the following matters shall be considered in addition to the matters listed in § 8.B:
1. the compatibility, nature and character of the current and of the proposed surrounding areas as they relate to the intent and purposes of this ordinance; and
 2. if the proposed new location is within an historic district, the visual compatibility factors as set forth in § 8.D. hereof.
- D. **Visual compatibility considered for additions, removals or rehabilitations.** In regard to an application to move a landmark or improvement into, or to construct a new structure or add to, alter or rehabilitate an existing improvement within an historic district, or a landmark, the visual compatibility of the proposed improvement with the structures and surroundings to which it would be visually related shall be considered in terms of the visual compatibility factors as set forth in § 8.G. hereof.
- E. **Consideration on other actions.** In regard to an application for other approval of any proposed action set forth in § 6. hereof, the following matters shall be considered:
1. if an historic landmark or an improvement in an historic district is involved:

- a. the impact of the proposed change on its historic and architectural character;
 - b. its importance to the Town of Westfield and the extent to which its historic or architectural interests would be adversely affected to the detriment of the public interest; and
 - c. the extent to which there would be involvement of textures and materials that could be reproduced or could be reproduced only with great difficulty;
2. the use of any structure involved;
 3. the extent to which the proposed action would adversely affect the public's view of a landmark or improvement within an historic district from a public street; and
 4. if the application deals with an improvement within an historic district, the impact the proposed change would have on the character and ambience of the historic district and the improvement's visual compatibility with the spaces and structures to which it would be visually related in terms of the visual compatibility factors set forth in § 8.G. hereof.

F. **Additional matters considered.** In regard to all applications, additional pertinent matters may be considered, but in no instance shall interior arrangement be considered. These additional matters may include the following standards and objectives of the ordinance:

1. Every reasonable effort should be made to provide a compatible use for buildings which will require minimum alterations to the building and its environment.
2. Rehabilitation work should not destroy the distinguishing qualities or character of the property and its environment. The removal or alteration of any historical material or architectural features should be held to a minimum consistent with the proposed use.
3. Deteriorated architectural features should be repaired rather than replaced wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplication of original features, substantiated by physical or pictorial evidence rather than on conjectural designs, or the availability of different architectural features from other buildings.

4. Distinctive stylistic features or examples of craftsmanship which characterize older buildings should be treated with sensitivity.
5. Many changes to buildings and environments are evident of the history of the building and the neighborhood. These changes may have developed significance in their own right and this significance should be recognized.
6. All buildings should be recognized as products of their own time. Alterations which may be inconsistent with the actual character of the building should be discouraged.
7. Contemporary designs for new buildings in old neighborhoods and additions to existing buildings or landscaping should not be discouraged if such design is compatible with the character of the neighborhood, building or its environment.
8. Wherever possible, new additions or alterations to buildings should be done in such a manner that if they were to be removed in the future, the essential form and integrity of the original building would be unimpaired.
9. The Historic Preservation Commission shall be guided for further details by the "Secretary of Interior Standards for Historic Preservation Projects" which has been prepared by the Office of Archaeology and Historic Preservation, Heritage Conservation and Recreation Service, U.S. Department of Interior, Washington, D.C., and as amended from time to time.

G. **Visual compatibility factors.** In assessing the effect of any proposed change under application, the following "visual compatibility" factors shall be used to analyze the effect that the change applied for would have on the landmark and on those structures to which the landmark is visually related, or on the district in which the structure is located.

1. Height. The height of the proposed building shall be visually compatible with adjacent buildings.
2. Proportion of building's front facade. The relationship of the width of the building to the height of the front elevation shall be visually compatible with buildings and places to which it is visually related.
3. Proportion of openings within the facility. The relationship of the width of windows to the height of windows in a building shall be visually compatible with the buildings and places to which it is visually related.

4. Rhythm of solids to voids on facades fronting on public places. The relationship of solids to voids in such facades of buildings shall be visually compatible with the buildings and places to which they are visually related.
5. Rhythm of spacing of buildings on streets. The relationship of the building to the open space between it and adjoining buildings shall be visually compatible with the buildings and places to which it is visually related.
6. Rhythm of entrance and/or porch projection. The relationship of entrance and porch projections to the street shall be visually compatible with the buildings and places to which it is visually related.
7. Relationship of materials, texture and color. The relationship of materials, texture and color of the facade and roof of a building shall be visually compatible with the predominant materials used in the buildings to which it is visually related, especially those immediately adjacent.
8. Roof shapes. The roof shape of a building shall be visually compatible with buildings to which it is visually related.
9. Walls of continuity. Appurtenances of a building such as walls, open-type fencing, evergreen landscape masses, shall form cohesive walls of enclosure along a street, to the extent necessary to maintain visual compatibility of the building with the buildings and places to which it is visually related.
10. Scale of building. The size of a building, the mass of a building in relation to open spaces, the windows, door opening, porches and balconies shall be visually compatible with the buildings and places to which it is visually related.
11. Directional expression of front elevation. A building shall be visually compatible with buildings and places to which it is visually related in its directional character, whether this be vertical character, horizontal character or nondirectional character.

§ 9. EFFECT OF CERTIFICATE OF APPROPRIATENESS APPROVAL, DENIAL, APPEAL.

- A. Issuance of a certificate of appropriateness shall be deemed to be final approval pursuant to this ordinance. Such approval shall neither cause nor eliminate the requirements for the filing of any collateral application or other proceeding required by any other municipal ordinance to be made prior to undertaking the action requested vis-a-vis the landmark or structure in the

historic district. A certificate shall be valid for two (2) years or such reasonable extensions thereof as the Commission may deem it in the public interest to grant.

- B. Should the Commission conclude that a certificate of appropriateness cannot be issued because the proposed alteration, construction, relocation, demolition or other change controlled by this ordinance would have a significant effect detrimental to the landmark or historic district, an official notice of postponement shall be submitted to the Construction Official. This postponement shall operate to bar the issuance of any municipal permit, such as a building permit or demolition permit, needed to undertake the activity for which a certificate of appropriateness was denied for a period not to exceed six (6) months, in the case of a minor application, and twelve (12) months in the case of a major application, from the date of the Commission's denial of the certificate of appropriateness for private property and for a period of forty-five (45) days and one hundred and twenty (120) days, respectively, for a minor or major application in the case of municipally owned property. Reasons for postponing for a specified time within the six (6) month or twelve (12) month limit, or the forty-five (45) or one hundred and twenty (120) day period for municipal property, as the case may be, shall be forwarded with the official notice. Any person aggrieved by such notice of postponement may appeal the decision to the Superior Court.
- C. During the postponement period, the Commission shall explore all possible means of preserving to the greatest extent possible the landmark in question, including, but not limited to, resorting to negotiations with the owner toward voluntary compromise; convening public hearings designed to elicit public opinion concerning the merits and alternative means of preservation of the landmark in question; instigating condemnation action by the governing body; and soliciting any tax or other fiscal benefits having the potential to relieve the owner of any unreasonable financial burden resulting from his inability to do the work proposed.
- D. Upon resolution of the factors underlying the notice of postponement, a notice to proceed shall issue from the Commission specifying the terms of the resolution or compromise reached between the Commission and the owner. The notice to proceed shall be endorsed by the chairman and secretary of the Commission and by the owner.
- E. Upon receipt of the notice to proceed, the Construction Official shall issue an appropriate permit sufficient to authorize construction or alteration work as described in the notice to proceed.

- F. If at the expiration of the period of postponement no resolution or compromise agreement is reached, and no action has been taken by the municipality or State toward condemnation of the property in question, the postponement and bar specified in subsection B. shall be removed and municipal permits may issue without the need for further Commission action, except for a demolition which shall require a further application to the Town Council pursuant to the Town Code.
- G. If at the expiration of the period of postponement it appears to the Commission that condemnation will be instituted by the municipality or the state government within a reasonable time thereafter, the Commission shall by an affirmative vote of five (5) members, further extend the postponement for a period which shall not exceed sixty (60) days and shall notify the Construction Official in writing of such an extension.

§ 10. SPECIAL REQUIREMENTS FOR DEMOLITION.

If the Commission approves a certificate of appropriateness for a demolition, the applicant shall be required to apply for, and receive a permit from, the Town Council pursuant to the Town Code after fulfilling all requirements therefor.

§ 11. PENALTIES.

- A. If any person shall undertake any activity vis-a-vis a landmark or improvement within an historic district without first having obtained a certificate of appropriateness, such person shall be deemed to be in violation of this ordinance.
- B. Upon learning of the violation, the Zoning Officer shall personally serve upon the owner of the lot, wherein the violation is occurring, a notice describing the violation in detail and giving the owner ten (10) days to abate the violation by restoring the landmark or improvement to its status quo ante. If the owner cannot be personally served within the municipality with the said notice, a copy shall be posted on site and a copy sent by certified mail, return receipt requested, to the owner at his last known address as it appears on the municipal tax rolls. Copies of all such notices shall be sent to the chairman of the Historic Preservation Commission.
- C. In the event that the violation is not abated within ten (10) days of service or posting on site, whichever is earlier, the Zoning Officer shall cause to be issued a Summons and Complaint, returnable in the municipal Court, charging violation of this ordinance. The Zoning Officer shall also notify the chairman of the Historic Preservation Commission of this action.

D. The penalty for violations shall be as follows:

1. for each day, up to ten (10) days: not more than twenty-five dollars (\$25.00) per day;
2. for each day, eleven (11) to (25) days: not more than fifty dollars (\$50.00) per day;
3. for each day beyond twenty-five (25) days: not more than seventy-five dollars (\$75.00) per day;
4. In the case of a demolition without a permit therefore, a violation shall be punishable by a one thousand dollar \$1,000.00 fine and up to thirty (30) days in jail.

E. In the event that any action would permanently change adversely the landmark or historic district, such as demolition or removal about to occur without a certificate of appropriateness having been issued, the Zoning Officer is hereby authorized to apply to the Superior Court of New Jersey for such injunctive relief as is necessary to prevent the destruction or removal of any landmark. The chairman of the Historic Preservation Commission shall be informed immediately of this action.

§ 12. PREVENTIVE MAINTENANCE.

Recognizing the need for preventive maintenance to insure the continued useful life of landmarks and improvements in historic districts, the Town Council hereby declares that code enforcement vis-a-vis landmarks and improvements in historic districts is a high municipal priority.

A. In the event that any landmark or improvement in an historic district deteriorates to the point that, in the best estimate of the housing code committee, the cost of correcting the outstanding code violations equals more than twenty-five percent (25%) of the cost of replacing the entire improvement on which the violations occur, the committee shall serve personally or by certified mail, return receipt requested, a notice on the owner of the landmark listing the violations, the estimate for their abatement, and the replacement cost of the improvement, and stating that if the owner does not take all necessary remedial action within ninety (90) days or such extensions as the committee shall for good cause grant, the municipality may, at the expiration of such ninety (90) days, enter upon the property and abate such violations itself and cause the cost thereof to become a lien on the property.

B. Upon receipt of such notice the owner may, within ten (10) days after such receipt, notify the housing code committee of his wish to have a hearing as to the allegations and estimates set forth in the notice. Such hearing shall be conducted by the Town

Attorney and shall, so far as possible, be a formal adversary proceeding in which the housing code committee shall establish the matters alleged in the notice by a preponderance of the evidence. If the owner does not request a hearing, the procedures set forth in § 7.A.1. above shall apply. If a hearing is requested, the Town Attorney will within ten (10) days following the hearing serve on the owner an opinion in writing setting forth his conclusions and the reasons therefore. Such opinion shall deem to be first notice pursuant to § 7.A.1. hereof.

- C. Thereafter, if the owner does not comply, the housing code enforcement office with the prior approval of the Town Council by resolution or ordinance as may be required may enter onto the premises and, by use of municipal labor or outside contractors or both, perform such work as is necessary to abate all violations.
- D. The housing code committee shall then certify to the Town Council the cost of such work, plus all administrative, clerical and legal costs and overhead attributable thereto and shall present same to the municipal governing body.
- E. The Town Council may, by resolution, vote to cause the sum so certified to become a lien upon the landmark property, payable with the next quarter's property taxes and, if not paid then, bearing interest at the same rate as delinquent taxes.

§ 13. EMERGENCY PROCEDURE.

In the event an act of God or any other unexpected event shall cause a property owner to request the immediate issuance of a building permit, or other permit, to commence to repair, replace, rehabilitate or reconstruct damage resulting from such event, and a certificate of appropriateness is a conditional precedent to the issuance of such permit, and the Construction Official certifies the immediate necessity for such permit issuance, the certificate of appropriateness may be issued in accordance herewith. Upon notice to the full Historic Preservation Commission by telephone, personal contact or other appropriate means of communication, at least three (3) members of the full Commission shall convene as soon as possible, and such convening members shall proceed to review the certificate of appropriateness application as provided in this section and may issue such certificate of appropriateness.

§ 14. PERMIT REVIEW.

It shall be the duty of all municipal officials reviewing all permit applications involving real property or improvement thereon to determine whether such application involves any activity which should also be the subject of an application for a certificate of appropriateness, and if it should, to inform both the secretary of the Commission and the applicant.

§ 15. DESIGNATED HISTORIC LANDMARKS.

The following properties, recommended by the Historic Preservation Commission and by the Planning Board to be designated as historic landmarks, are hereby designated as historic landmarks by virtue of this ordinance:

- A. The World War I monument located at the Plaza at the intersection of North Avenue and East Broad Street to include the vertical column, its base and the surrounding grounds extending to the existing street lines bordering the monument and statuary atop the column and any inscriptions or plaques thereon and being located on Lot 1, Block 2507 on the tax maps of the Town of Westfield.

The Historic Preservation Commission shall be permitted to place an appropriate notation and plaque on said property indicating its historic landmark status.

- B. The Westfield Fire Headquarters #1 located at 401-405 North Avenue West, Westfield, New Jersey and designated as Lot 6, Block 3103 on the tax maps of the Town of Westfield.

The Historic Preservation Commission shall be permitted to place an appropriate notation and plaque on said property indicating its historic landmark status.

- C. The private residence presently owned by Earl Frawley and Patricia Frawley, h/w, located at 522 Elm Street, Westfield, New Jersey, known as Lot 4, Block 1102 on the tax maps, being the property formerly occupied as a childhood residence by the deceased cartoonist and humorist Charles Addams.

The Historic Preservation Commission shall be permitted to place an appropriate notation and plaque on said property indicating its historic landmark status.

- D. Mindowaskin Park, known as Lot 12, Block 2403, it being the intention to exclude from such designation the property owned by the Town of Westfield known as Lot 10, Block 2403, also known as the Reeve House.

The Historic Preservation Commission shall be permitted to place an appropriate notation and plaque on said property indicating its historic landmark status.

- E. The private residence presently owned by Hugh Platt located at 526 Wychwood Road, Westfield, New Jersey, known as Lot 1, Block 1410 on the tax maps, being also known as the Ball-Platt house, the Joseph Ball house and the Amzi Ball house and originally built in 1741 and located in what is now Maplewood, New Jersey.

The Historic Preservation Commission shall be permitted to place an appropriate notation and plaque on said property indicating its historic landmark status.

- F. The private residence presently owned by Allen R. Malcolm and Florence J. Malcolm located at 841 East Broad Street, Westfield, New Jersey known as Lot 33, Block 2101 on the tax maps, being also known as the Scudder Farm House originally built about 1790 and originally the residence of John Scudder, a member of one of the pioneer families of Westfield.

The Historic Preservation Commission shall be permitted to place an appropriate notation and plaque on said property indicating its historic landmark status.

- G. The private residence presently owned by Charles L. Whedon and Viola M. Whedon located at 667 Fourth Avenue, Westfield, New Jersey, known as Lot 6, Block 3303 on the tax maps, being also known as the Matthias Sayre House originally built about 1760 and originally the residence of Matthias Sayre, a member of one of the pioneer families who fought in the Revolutionary War.

The Historic Preservation Commission shall be permitted to place an appropriate notation and plaque on said property indicating its historic landmark status.

- H. The private residence presently owned by Mr. and Mrs. Theodore Alley located at 508 Salter Place, Westfield, New Jersey, known as Lot 12.02, Block 3408 on the tax maps, being also known as the Charles Marsh House originally built around 1775 and originally the residence of Charles Marsh, a soldier in the Revolutionary War, it being the intention to exclude from such designation that portion of said lot seventy (70) feet in width abutting the easterly side lot line and extending from the front lot line to the rear lot line.

The Historic Preservation Commission shall be permitted to place an appropriate notation and plaque on said property indicating its historic landmark status.

§ 16. DESIGNATED HISTORIC DISTRICTS.

The following properties, recommended by the Historic Preservation Commission and by the Planning Board to be designated as historic districts, are hereby designated as historic districts by virtue of this ordinance:

- A. Kimball Avenue District. This district includes the properties described hereafter, all currently in single family residential use:

<u>Address</u>	<u>Block</u>	<u>Lot</u>	<u>Historic Description</u>
216 Kimball Avenue	2401	2	Embree House
222 Kimball Avenue	2401	3	
230 Kimball Avenue	2401	4	Robert A. Fairbairn House
231 Kimball Avenue	1101	16	Faircroft
237 Kimball Avenue	1101	15	Fairbairn-Pierson House
242 Kimball Avenue	2401	5	Dohrman-Ludwig House
243 Kimball Avenue	1101	14	Reverend Patton House
248 Kimball Avenue	2401	6	Faulkner House
249 Kimball Avenue	1101	13	Alpers-Cowperthwaite House
256 Kimball Avenue	2401	7	
257 Kimball Avenue	1101	12	Baker-Evans House
265 Kimball Avenue	1101	11	Alpers-Sanborn House
266 Kimball Avenue	2401	8	Platt House
322 Lawrence Avenue	2402	1	Putnam-Crammer House
404 Lawrence Avenue	1113	1	Douglas House

The Historic Preservation Commission shall be permitted to place appropriate plaques in said district indicating its historic status and individual property owners shall be permitted to include a plaque on their individual houses showing the date of construction, architectural style and/or historic description; provided, however, that such individual plaques not exceed one (1) square foot in area.

§ 17. REPEALER.

All ordinances or parts of ordinances in conflict or inconsistent with any part of the terms of this ordinance are hereby repealed to the extent that they are in such conflict or inconsistent, specifically the current appendix to the Land Use Ordinance dealing with Historic Designation and Preservation is repealed in its entirety.

§ 18. SEVERABILITY.

In the event that any section, part, or provision of this ordinance shall be held to be unconstitutional or invalid by any court, such holding shall not affect the validity of this ordinance as whole, or any part thereof other than the part so held unconstitutional or invalid.

§ 19. EFFECTIVE DATE.

This ordinance shall take effect after passage and publication, as soon as and in the manner permitted by law.